

Whereas, this landmark statute, further explained and clarified by subsequent Supreme Court cases, has struck a proper balance between clean water and state, local, and federal regulatory authority and responsibilities, while at the same time recognizing and protecting state primacy over water jurisdiction;

Whereas, the proposed Clean Water Restoration Act of 2007, H.R. 2421 and S. 1870, and similar legislation, attempts to make extreme changes to the Clean Water Act and threatens to destroy the careful inter-governmental balance that has been the hallmark of the law throughout its long history;

Whereas, the proposed federal legislation would change federal jurisdiction over water by expanding the definition from "navigable" to "waters of the United States" over which federal jurisdiction extends;

Whereas, that language change would allow federal reach to explicitly include "all interstate and intrastate waters and their tributaries . . .", essentially establishing under federal law that all wet areas within a state, or areas that have been wet at some time, would fall under federal regulatory authority, including groundwater, ditches, pipes, streets, gutters, desert features, and even pools and puddles;

Whereas, this legislation would give the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) authority over "all interstate and intrastate waters," including non-navigable waters, thereby granting to Congress authority far beyond the original scope of the Clean Water Act;

Whereas, this legislation patently exceeds Congress's constitutional powers, as "non-navigable" waters are unlikely to fall under the Commerce Clause, the principle-enumerated power upon which Congress has relied for passage of environmental laws;

Whereas, this legislation would dramatically expand the reach of the federal bureaucracy, would fundamentally erode the ability of state and local governments to manage their own water resources, and would cause an avalanche of new unfunded mandates to envelope state and local governments;

Whereas, this legislation would essentially grant the EPA and the Corps veto authority over local land use policies, and would grant the EPA and the Corps authority to regulate virtually all activities, private or public, that may affect "waters of the United States," regardless of whether the activity is occurring in, or may impact, water at all;

Whereas, this legislation would eliminate existing regulatory limitations that allow common sense uses, including prior converted cropland and waste treatment systems, since the proposed definition does not include any regulatory limitations;

Whereas, this omission is particularly important because the existing rules acknowledge two important limitations covering prior converted cropland and waste treatment systems designed to meet Clean Water Act requirements;

Whereas, this legislation's expanded definition would burden state and local governments administratively and financially and would thrust unfunded mandates on state and local governments by imposing significant new administrative responsibilities upon them;

Whereas, this legislation would require changes at the state level by impacting comprehensive land use plans, floodplain regulations, building and special codes, and watershed and storm water plans;

Whereas, local governments will also be impacted because they are responsible for a number of public infrastructure projects, including water supply, solid waste disposal,

road and drainage channel maintenance, storm water detention, mosquito control, and construction projects; and

Whereas, local government efforts to carry out maintenance of government-owned buildings, including hospitals, schools, and municipal offices, could also be adversely impacted; Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, express its strong opposition to any federal legislation that would expand the reach and scope of the Clean Water Act, and express their commitment to the goals and objectives of the original Act to keep our waters clean; be it further

Resolved, That the Legislature and the Governor assert that it is not in the nation's interest to regulate ditches, culverts and pipes, desert washes, dry arroyos, farmland, and treatment ponds as "waters of the United States" and therefore subjecting these waters to all of the requirements of federal regulation; be it further

Resolved, That the Legislature and the Governor call upon Congress to preserve the traditional power of states over land and water use and avoid unnecessary alterations to the regulatory reach of the Clean Water Act amendments as proposed in the Clean Water Restoration Act of 2007 and similar federal legislation; be it further

Resolved, That the Legislature and the Governor express their opposition to enacting the Clean Water Restoration Act of 2007 as proposed, as being without merit or justification based on 35 years of experience under the original Act as modified by court decisions and practice; be it further

Resolved, That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-38. A joint resolution adopted by the Legislature of the State of Utah supporting the withdrawal of the United States' World Trade Organization commitments on gambling; to the Committee on Finance.

HOUSE JOINT RESOLUTION NO. 1

Whereas, the World Trade Organization (WTO) Dispute Resolution Body found the United States to have made a commitment under the General Agreement on Trade in Services (GATS) in the category of "Other Recreational Services" that covered gambling services;

Whereas, the Appellate Body of the WTO acknowledged the importance of "public morals" concerns in this WTO dispute and the legitimacy of the United States "public morals" defense in this case;

Whereas, states have considerable authority to regulate and prohibit various forms of gambling;

Whereas, a number of states communicated with the Office of the United States Trade Representative (USTR) to express their concern about the WTO decision and its implications for public morals and for state regulation of gambling;

Whereas, the USTR took steps last year to rescind the United States' commitment in "Other Recreational Services," consistent with the wishes of states as expressed through letters and direct communications to USTR, as well as the wishes of Congress as exemplified by the Unlawful Internet Gambling Enforcement Act;

Whereas, in withdrawing this commitment, the United States had to offer compensatory adjustments in its overall schedule of GATS commitments, providing market access opportunities to United States' trading partners in other sectors;

Whereas, the United States has signed Free Trade Agreements with a number of nations

that are home to major on-line gambling operations;

Whereas, the London-based Remote Gambling Association has already filed a complaint with the European Union asking that Europe bring a new WTO claim against the United States on gambling; and

Whereas, the Utah Legislature created the Utah International Trade Commission in 2006 as a legislative commission to address international trade issues; Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses its gratitude to the USTR for its forthright position in the WTO gambling commitments dispute, and its willingness to withdraw the United States' commitment under "Other Recreational Services" once it was determined that this commitment covered gambling; be it further

Resolved, That the Legislature of the state of Utah recognizes that this action reflects the increasing responsiveness of the USTR in addressing the legitimate regulatory concerns of states in light of international trade commitments undertaken by the federal government; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that the terms of the agreement whereby the United States withdrew the commitment under "Other Recreational Services" were withheld from members of Congress, the Intergovernmental Policy Advisory Committee (IGPAC), and state oversight commissions on international trade; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that the USTR's recent actions are an effort to bypass Congress and IGPAC by proposing a solution outside of the constitutional United States Senate treaty ratification process; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that United States' trading partners may attempt to bring further claims against federal and state gambling laws under trade and investment agreements that lack the "public morals" exception found in the WTO GATS; be it further

Resolved, That a copy of this resolution be sent to the WTO, USTR, Utah Congressional delegation, and members of the U.S. Senate Finance and House Ways and Means Committees.

POM-39. A concurrent resolution adopted by the Legislature of the State of Utah urging Congress to grant the state of Utah waivers to establish an employer-sponsored work program and other strategies to address illegal immigration in the state; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 1

Whereas, illegal immigration is an increasing concern in many states, including the state of Utah;

Whereas, recent attempts by Congress to make major reforms in immigration law have stalled;

Whereas, without definitive direction from the federal government, states are struggling to adequately address the many issues surrounding illegal immigration within their respective borders;

Whereas, there is an increasing need for state and local governments to address problems associated with illegal immigration, most particularly in the area of job employment;

Whereas, federal waivers would greatly increase the state of Utah's capacity to address current illegal immigration challenges;

Whereas, a federal waiver would be required for Utah to institute an employer-sponsored work program providing a two-year, renewable guest worker authorization for foreign workers;